

## REMARKS

Reconsideration of this application as amended is respectfully requested.

In the Office Action, claims 1-40 were pending and rejected. In this response, no claim has been canceled or amended. No new matter has been added.

Claims 1-3, 5, 9, 11-13, 15, 17, 19, 23, 25-27, 29-31, 34-35, 37-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukuda, U.S. Publication No. 2003/0012156 ("Fukuda"). Claims 4, 6-8, 10, 14, 18, 20-22, 24, 28, 36 are rejected under 35 U.S.C. 103(a) as being anticipated by Fukuda, U.S. Publication No. 2003/0012156 ("Fukuda") in view of Shah et al., U.S. Publication No. 2003/0105821 ("Shah"). Claim 16 is rejected under 35 U.S.C. 103(a) as being anticipated by Fukuda, U.S. Publication No. 2003/0012156 ("Fukuda") in view of Will, U.S. Patent No. 5,825,353 ("Will"). Claims 32-33 are rejected under 35 U.S.C. 103(a) as being anticipated by Fukuda, U.S. Publication No. 2003/0012156 ("Fukuda") in view of Frietas et al., Publication No. 2001/0047272 ("Frietas").

It is respectfully submitted that Fukuda does not qualify as prior art against the present application. Fukuda was filed in Japan March 7, 2000 and was filed as PCT March 7, 2001. It is respectfully submitted that the Japanese filing date cannot be used as a priority date of Fukuda. The earliest effective U.S. filing date of Fukuda is its PCT filing date of March 7, 2001 (which is after the filing date of the present application), provided Fukuda was designated in U.S. and published by WIPO in English (see, 35 U.S.C. 102(e)). As a result, Fukuda was effectively filed after the filing date of the present application and thus, is not prior art with respect to the present application. Applicant hereby reserves the right to swear behind Fukuda in the subsequent prosecution of the present application.

In addition, Frietas was filed February 28, 2001, which is after the filing date of the present application, claiming the benefit of a provisional application dated February 29, 2000. Since the non-provisional application of Frietas was filed after the filing date of the present application, it is respectfully submitted that only the disclosure of the provisional application of Frietas can be used against the present application. Applicant hereby reserves the right to swear behind Frietas in the subsequent prosecution of the present application.

It is respectfully submitted that claims 1-40 include limitations that are not disclosed or suggested by the rest of the cited references, individually or in combination. Therefore, Fukuda and/or Frietas are not prior art with respect to the present application and the present application as claimed is not anticipated by and is patentable over the cited references.

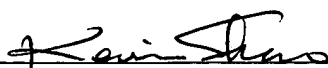
In view of the foregoing, Applicants respectfully submit the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

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